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| APPLICATION NO.   | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO.  | CONFIRMATION NO. |
|---|-------------|----------------------|----------------------|------------------|
| 10/567,430  | 04/25/2006  | Simon Cote           | 055722.003600.01USPC | 6929             |
| 27148 7590 04/16/2010<br>POLSINELLI SHUGHART PC<br>700 W. 47TH STREET<br>SUITE 1000<br>KANSAS CITY, MO 64112-1802 |             |                      |                      |                  |
| EXAMINER  |             |                      |                      |                  |
| KAHN, RACHEL  |             |                      |                      |                  |
| ART UNIT  |             | PAPER NUMBER         |                      |                  |
| 1796  |             |                      |                      |                  |
| MAIL DATE   |             | DELIVERY MODE        |                      |                  |
| 04/16/2010  |             | PAPER                |                      |                  |

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/567,430

**Applicant(s)**

COTE, SIMON

**Examiner**

RACHEL KAHN

**Art Unit**

1796

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 02 March 2010.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 53 and 61 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 53 and 61 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/22)
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date: \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_
- Paper No(s)/Mail Date: \_\_\_\_\_

**DETAILED ACTION**

Claims 53 and 61 are pending as amended on 3/2/10.

***Response to Amendment***

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Any rejections stated in the previous Office Action and not repeated below are withdrawn. Specifically:

Applicant has amended the pending claims to clarify or remove the issues rejected under 35 USC 112 second paragraph. The claims now clearly recite that all monomers used to prepare the claimed polyether are identical.

Applicant has further narrowed the scope of claims 53 and 61 by reciting that groups C and E represent a nitrile. Neither Kunita (US 6476092) nor Cote (WO02/40559) discloses monomers of the structure recited in the instant claims presented 3/2/10. As such, all rejections set forth in the action dated 1/20/10 are withdrawn.

The new grounds of rejection set forth below are necessitated by applicant's amendment filed on 3/2/10. It is noted that the newly introduced limitations were not present at the time of the preceding action. For this reason it is proper to make the present action FINAL.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

**Claims 53 and 61** are rejected under 35 U.S.C. 102(b) as being anticipated by **Kunida** (JP 2002-105128; included machine translation cited herein).

Kunida discloses a photopolymerizable material comprising a compound of general formula (1) and an initiator [0006]. Compounds B-3 and B-4 (species of general formula (1)), disclosed in table 4 [0046], anticipate the instantly recited monomers. Kunida teaches that the polymerizable composition may comprise 100 wt % of compounds of general formula (1) [0057]. The instantly recited cross-linked polyether is obtained once the monomer composition is exposed to radiation, as disclosed in [0169-0175; 0201].

**Claims 53 and 61** are rejected under 35 U.S.C. 102(e) as being anticipated by **Kunita** (US 6787622).

Kunita discloses a photopolymerizable material comprising a radically polymerizable compound (see col 2, lines 33-49). Compounds B-3 and B-4, disclosed in cols 17-18, table 2, anticipate the instantly recited monomers. Kunita teaches that the composition containing the disclosed radically polymerizable compound is applied to known uses of photosetting resins, such as the use of lithographic printing plate for scanning exposure (col 52, lines 34-53). The instantly recited cross-linked polyether is obtained once the monomer composition is exposed to radiation, such as the scanning exposure disclosed in columns 52, line 39. While Kunita teaches that, optionally, an additional polymerizable compound may be present in the composition (col 52, lines 39-42), Kunita nowhere teaches that another monomer must be present. As such, the recitation in the instant claim that all the monomers are identical in the polyether is fulfilled.

### ***Response to Arguments***

Applicant's arguments with respect to claims 53 and 61 have been considered but are moot in view of the new ground(s) of rejection.

Applicant's arguments are drawn to the failure of the previously relied upon references to meet the limitations of the amended claims presented 3/2/10. As noted above, the teachings of the previously relied upon references do not fall within the scope of the amended claims, and the rejections have been withdrawn.

***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to RACHEL KAHN whose telephone number is (571)270-7346. The examiner can normally be reached on Monday to Friday 8:00 am to 5:00 pm EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Randy Gulakowski can be reached on 571-272-1302. The fax phone

number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/R. K./  
Examiner, Art Unit 1796

/RANDY GULAKOWSKI/  
Supervisory Patent Examiner, Art Unit 1796